

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: WILLIAM ALLOCCA *et al.*
APPLICATION NO.: 09/547,540
FILED: APRIL 12, 2000
FOR: **PLACING A PURCHASE ORDER USING
ONE OF MULTIPLE PROCUREMENT
OPTIONS**

APPEAL NO.: 2007-1327

EXAMINER: YOGESH C. GARG

ART UNIT: 3625

CONF. NO: 5837

Mail Stop Appeal Brief - Patent
Commissioner for Patents
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REPLY TO THE SUPPLEMENTAL EXAMINER'S ANSWER

Sir:

In the Supplemental Examiner's Answer, the Examiner attempts "to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements [of Hartman and Yamada] **in the way the claimed new invention does.**" *KSR Int'l v. Teleflex, Inc.*, 127 S. Ct. 1727, 1741 (2007) (emphasis added). The Examiner's purported reason, however, is based on a fundamental misunderstanding of what Hartman describes. Because of this misunderstanding, the Examiner's rationale for combining Hartman and Yamada as claimed is without merit.

- I. Hartman's Figure 1A does not display multiple groups of order fulfillment information as suggested by the Examiner.

It is the Examiner's position that Hartman's button 103a and subsection 103b of Figure 1A show two different order fulfillment options. Specifically, the Examiner states that

[t]he features 103a and 103b [of Figure 1A] represent multiple options/indications representing multiple order fulfillment information, such

as 103a is for shipping the item to any designated address and 103b is for shipping the item only to the customer's home. On pressing the option/indications 103a and 103b, in Hartman, a request is sent to the server to order the item based on the selected element, without further intervention by the customer/user.

(Supplemental Examiner's Answer, p. 5.) The Examiner is thus interpreting Hartman's Figure 1A as disclosing that a purchaser can either select 103a to ship the item to "any designated address" or select 103b to ship the item to the purchaser's home. This interpretation is wrong.

Hartman's 103a and 103b of Figure 1A are not "options" that a user can select to specify different delivery addresses. Rather, 103a is a "single-action ordering button," and 103b is a "purchaser identification subsection." (Hartman, 4:35-58.) Although a purchaser can select the single-action ordering button 103a (as the term "button" suggests), the purchaser cannot select the purchaser identification subsection 103b. The purchaser identification subsection 103b is not a "button" that the user can select. Rather, it simply identifies the purchaser to whom the item is to be delivered and the delivery location so that the purchaser knows that the server system correctly identified the purchaser and knows the delivery address to which the item will be shipped. Once the purchaser selects the single-action ordering button 103a, an order is placed to deliver the item in accordance with the purchaser identification subsection 103(b), that is "John Doe at home." (Hartman, 4:59-5:7.)

Hartman makes it very clear that the purchaser identification subsection 103b is simply to confirm that the server system has correctly identified the purchaser and that the single-action ordering button 103a is for ordering the item to be delivered in accordance with the purchaser identification subsection 103b. Hartman states that:

The purchaser information subsection displays enough information so that the purchaser can verify that the server system correctly recognizes the purchaser.

(Hartman, 4:38-41.) Hartman further states:

When the purchaser selects the single-action ordering button, the client system sends a message to the server system requesting that the

displayed item be ordered. After the server system processes the message, the server system provides to the client system a new Web page that confirms receipt of the single-action order.

(Hartman, 4:59-64.) Indeed, Hartman further describes that a web page confirming the order "can be identical" to Figure 1A "except that the single-action ordering button is replaced with a message confirming the order." (Hartman, 5:6-8.) Thus, this "identical" web page would still have the same purchaser identification subsection 103b indicating that the item has been ordered for shipping to "John Doe at home."

Hartman describes how a user can change the shipping address from "John Doe at home" to some other shipping address. A purchaser would need first to select the "check shipping address" label 103c of Figure 1A and then to log in to verify the purchaser's identity. Only then would Hartman allow the purchaser to view or modify the shipping address. (Hartman, 4:46-58.) Thus, contrary to the Examiner's assumption, the purchaser cannot select or specify different shipping addresses from Figure 1A itself.

II. Since the Examiner misinterprets Hartman's Figure 1A, the Examiner's rationale for combining Hartman and Yamada as claimed is without merit.

It is the Examiner's position that both Hartman and Yamada provide "teaching, suggestion, or motivation to combine the prior art teachings." (Supplemental Examiner's Answer, p. 6.) The Examiner's rationale is that since "Hartman . . . suggests providing more than one indications for fulfillment of an order [i.e., via 103a and 103b of Figure 1A] . . . and Yamada suggests providing more than one indications for fulfillment of an order [via a shopping cart]," one skilled in the art would be motivated to combine Hartman and Yamada to "provide flexibility and convenience to the customer in placing the order and receiving its delivery at any time." (Id.)

As discussed above, Hartman does not provide "more than one indications for fulfillment of an order" as the Examiner suggests. Because Hartman does not provide multiple fulfillment options, the Examiner rationale for combining Hartman and Yamada is based on an incorrect assumption of Hartman and thus is without merit.

For the reasons outlined in appellant's Appeal Brief, Reply Brief, Supplemental Reply Brief, and this Reply to the Supplemental Examiner's Answer, appellant requests that the rejection of the claims be reversed.

Dated: 1/8/08

Respectfully submitted,

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